

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
October 18, 2012**

Members Present

Bill O'Brien, Chairman
Vic Lessard
Jack Lessard (Alternate)
Ed St. Pierre

Others Present

Kevin Schultz, Building Inspector
Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:04 p.m.

Board members were introduced.

The Pledge of Allegiance was said.

PETITION SESSION

Chairman O'Brien announced that Petition 41-12, 66 Kings Highway, had been withdrawn.

35-12... Continued hearing of Jerome D. and Karen L. Prevost for property located at 3 Perkins Avenue seeking relief from Article IV, Sections 4.1.1, 4.2 (Footnote 22), 4.5.3 and Article VIII, Sections 8.2.2, 8.2.3, 8.2.4, 8.2.5 and 8.2.6 to construct a multi-family dwellings structure with three (3) units. This property is located on Map 293, Lot 29 and in a RB Zone.

Jerome and Karen Prevost, Petitioners, and Attorney Stephen Ells came forward.

Attorney Ells and Chairman O'Brien discussed the number of Board members required to be present to hear a petition. Chairman O'Brien stated that according to the RSA's three members (elected and appointed alternates) constitute a quorum and according to the Board's Rules of Procedure, which is more restrictive, three regular members (no alternates) constitute a quorum.

Attorney Ells noted that the Petitioner's prior plan did not provide for a walkway for access to the building. An amended site plan has been submitted which provides for a 4-foot walkway and moves the entire building forward in a northerly direction. Now a variance for a rear setback is not needed. One of the exterior parking spaces has been shifted to the easterly side of the property line. Attorney Ells said he felt this was a good resolution. Attorney Ells went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if there were other properties in the neighborhood that have been developed into multi-family since the 1990's. Attorney Ells said other such properties have been there for a long time. It looks like a very stable neighborhood.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. St. Pierre said he had a problem with the fact that this is a lot that contained a single family house previously. He asked if it wouldn't be a mistake to set a precedent against the voters' wishes expressed in the 1990's. Mr. St. Pierre said he felt this should be the Town's decision.

Attorney Ells said he didn't believe this was setting a precedent and that this is a reasonable use for the property. He also stated that the 4.5.3 rear setback relief was no longer required.

Moved by Mr. V. Lessard and seconded by Mr. J. Lessard, to grant Petition 35-12.

Vote: 3-0-1 (St. Pierre). Motion passed.

42-12... The petition of Joe Ebert through Brian Kent of R.N.B. Builders, LLC for property located at 984 Ocean Blvd. seeking relief from Articles 1.3 and Article VI as to 4.5.2 to extend existing deck 5 ft. out over the existing foundation. This property is located on Map 134, Lot 92 and in a RA Zone.

Brian Kent came forward on behalf of Joe Ebert. Mr. Kent went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre asked if the new deck on the back would extend closer to the South property line. Mr. Kent said it would not.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Mr. St. Pierre asked how close the deck would be to the property line. Mr. Kent replied it would be 6-1/2 feet.

Moved by Mr. J. Lessard and seconded by Mr. St. Pierre, to grant Petition 42-12.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 4-0-0. Motion passed unanimously.

43-12...The petition of Stephanie and Matt Pawlowicz for property located at 7 Cole Street seeking relief from Article 1.3 and Article IV as to 4.5.1, 4.5.1 and 4.5.3 to modify the existing house envelope, remove two external stairs that encroach into the setback zone for a new single internal stair, create a front door element and add a third floor to the house for a more livable, usable and less "non-conforming" residence. This property is located on Map 275, Lot 15 and in a RCS Zone.

Stephanie and Matt Pawlowicz, Petitioners, and Shannon Alther, TMS Architects, came forward. Mr. Alther said the petitioners purchased this single family home earlier this year. They want to remove the two exterior stairs and put in an interior staircase. This will be more conforming. They also want to add a third story which will have a height of 31-32 feet where 35 feet is allowed. Mr. Alther went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Joseph Musumarra, 5 Cole Street, came forward. He said he is an abutter to this property and is definitely in favor of granting this petition. It will enhance the neighborhood.

Mr. Alther then presented three signatures of neighbors approving of the petition.

Back to the Board

Mr. St. Pierre said that although this will probably be the tallest building in the area, he didn't see a problem and it would enhance the neighborhood.

Moved by Mr. V. Lessard and seconded by Mr. J. Lessard, to grant Petition 43-12.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 4-0-0. Motion passed unanimously.

44-12... Sheepscoot River Holdings 1, LLC for property located at 500 Lafayette Road seeking relief from Article 3.8, 4.1.1, 4.7, 8.2.1, 8.2.4 and 8.2.6 to construct an 80 unit apartment building on the site of a former Lilly office building, most of which will be in the business zone but some of which will be in the industrial zone requiring a use variance. The parking and height requirements are satisfied but variances are needed for lot area/dwelling unit, units in building, and three multi-family requirements. This property is located on Map 143, Lot 9 and in a B & I Zone.

Attorney Peter Saari, Casassa & Ryan, Rob Martel, Berard Martel Architecture, Inc. and Erik Saari, Altus Engineering, came forward. Attorney Saari said this would be an 80-unit building and it is a very expensive project. It targets people who want to live downtown. There would be 76 two-bedroom units and 4 one-bedroom units. Variances are needed for lot area/dwelling unit, units in building, and three multi-family requirements. Attorney Saari said he felt this project would revitalize the area.

Mr. Martel explained the design of the project. He said recreational aspects are still under development. There is a basement portion which could be used as a gym, etc. It will be a four-story building. The height is 46 feet where 50 feet is the maximum.

Mr. Erik Saari said he was responsible for site design. He discussed parking. Parking will be shared with the Old Salt Restaurant. There will be more spaces than required by the ordinance. Mr. E. Saari said the drainage increase will not be that great. Snow will be moved around the perimeter of the lot and other areas. If there is a great deal, it will be trucked away.

Questions from the Board

Mr. St. Pierre asked about parking. Mr. E. Saari said they will not designate parking spaces. Access entry points are spread around the building. Chairman O'Brien said his concern was that the Old Salt has inadequate parking. Mr. V. Lessard said the Old Salt employees could park in the Town parking lot rather than on the site.

Chairman O'Brien asked why they decided on 80 units. Mr. E. Saari said it fits well. Chairman O'Brien asked about cutting off 8 units. There would then be enough room to assign parking spaces. Mr. Tom Toye, Property Manager, said that would not be practical. He said he was quite confident that there would not be a problem. Chairman O'Brien said he did see it as a problem. Mr. E. Saari said assigning parking spaces would create more problems.

Comments from the Audience

Attorney John Springer, counsel for Saxonville Lumber, said they opposed the petition. The recreation issue is very important. Attorney Springer said traffic could be a problem. Attorney Springer said the petitioners said the building would be on the same footprint, but it appears to be at least twice the size. Attorney Springer said 4.1.1 states that 10,000 s.f. is required per unit and this would only allow for 14 units on this site. Attorney Springer asked where children would play, where people would walk their dogs, etc. Attorney Springer said the petitioner did not adequately address the five criteria.

Back to the Board

Mr. St. Pierre said his problem was the spirit of the ordinance. This project is way too big.

Mr. J. Lessard said he felt a place like this would be successful.

Mr. V. Lessard said that Attorney Springer raised some very valid points and suggested that the Petitioner take the time to see if they could change the proposal since he believes they are pushing it.

Mr. St. Pierre offered some favorable comments and then suggested less density, more recreation space, and closer compliance to the ordinances. He also stated that the large scale bothers him.

Chairman O'Brien said he was basically for the project, said he agreed with the comments of Mr. V. Lessard and Mr. St. Pierre, was concerned about parking, and that the scope of the project was too large.

At this point, Attorney Saari said they would like to withdraw and return to the Board in December.

Moved by Mr. V. Lessard, seconded by Mr. J. Lessard, to allow petitioner for Petition 44-12 to withdraw without prejudice and return for the December meeting at which time they will be first on the Agenda.

Vote: 4-0-0. Motion passed unanimously.

45-12... The petition of John Carney, through Shawn Carney, seeking relief from Article 1.3 and Article IV, Sections 4.5.1 and 4.5.3, to add a second floor bathroom and bath with attached deck. This property is located on Map 303, Lot 019 and in a RA Zone.

Shawn Carney and John Carney came forward. Chairman O'Brien said there was no street address noted in the petition. The petitioner is aware that if he proceeds it is with the understanding that if anyone appeals within the 30 day timeframe stating they were unaware of the location of the property, then the petitioner would have to come back. The petitioner agreed to proceed with that condition.

It was also noted that the petition should read "add a second floor bedroom" rather than "add a second floor bathroom".

Mr. S. Carney said they want to add a second floor to the existing foundation within the existing footprint. The structure is presently in disrepair and they want to fix that. Mr. S. Carney went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. St. Pierre said he felt the project would be an improvement to the neighborhood.

Chairman O'Brien noted that the elevation and plot plans differed from the floor plans and asked the petitioner to rectify this.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Moved by Mr. St. Pierre and seconded by Mr. J. Lessard to grant Petition 45-12.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 4-0-0. Motion passed unanimously.

BUSINESS SESSION

Adoption of Minutes

Moved by Mr. J. Lessard and seconded by Mr. V. Lessard, to approve the Minutes of September 20, 2012, as amended.

Amendments made as follows:

Page 3, Paragraph 4, Sentence 2: Should read "Mr. V. Lessard and his son, Kenny, own the property in the rear".

Page 6, Paragraph 8, Sentence 8: Should read "Building code allows them to rebuild in the exact same footprint".

Page 7, Paragraph 3, 2nd from last sentence: Should read "Some abutters have had problems with the current use".

Page 9, Paragraph 2, Sentence 1: Should read "Mr. St. Pierre wanted to discuss his research on the property at 13th Street and Kings Highway".

Vote: 4-0-0. Motion passed unanimously.

Adjournment

Moved by Mr. J. Lessard and seconded by Mr. V. Lessard, to adjourn the meeting at 10:00 p.m.

Vote: 4-0-0. Motion passed unanimously.

Respectfully submitted,

Joan Rice
Secretary